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10/814,344

04/01/2004

Yoshiaki Sakagami

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04/14/2008

SQUIRE, SANDERS & DEMPSEY L.L.P.  
8000 TOWERS CRESCENT DRIVE  
14TH FLOOR  
VIENNA, VA 22182-2700

EXAMINER

RICE, ELISA M

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/814,344	<b>Applicant(s)</b> SAKAGAMI ET AL.	
	<b>Examiner</b> Elisa M. Rice	<b>Art Unit</b> 2624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 1/7/2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/7/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/7/08 has been entered.

### ***131 Declaration***

2. The Declaration filed on January 07, 2008 under 37 CFR 1.131 has been considered but is ineffective to overcome the Higaki reference (2004/0028260 A1). The Declaration fails to establish diligence from a prior to the reference to actual filing in the U.S. No evidence of due diligence has been made of record.

## **Response to Amendment**

3. Applicant's amendments filed on January 7, 2008 have been received and entered.

## **Response to Arguments**

4. Applicant need not take action as a result of the provisional non-statutory obviousness-type double-patenting rejection as this is provisional in nature and will be withdrawn when the present application or the co-pending application is in condition for allowance.

The Higaki reference has been replaced by Nakadai in the following action, rendering Applicant's arguments moot.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1, 2, 3, 4, 5, 7, 8, 9 and 10** are rejected under 35 U.S.C. 102(b) as being anticipated by Kuno (US 5,802,494).

**Regarding claim 1**, Kuno discloses an image transmission system for a mobile robot, comprising:

a camera for capturing an image as an image signal (Figure 2B, 31a and 31b; "video camera", Kuno, column 1, line 11).

human detecting means for detecting a human from the captured image ("As can be understood from FIG. 16, the facial features of the subject, e.g., the eyebrows, the eyes, the nose, the ears, the mouth, have the position relation which is common to human beings. This relation is defined by the positions of individual facial features with respect to the vertical and horizontal directions, and also by the distances between the facial features. The designated local module or the host computer 6d can, therefore, determine the positions of the facial features detected in step f4, in accordance with the data representing said position relation. To detect the images of the facial features, the vertical center line of the subject's face is first detected from the outline of the subject's head, the angle by which the subject faces away from the video camera 31a is then determined from the position of the center line and the position of the top of the head. More specifically, the host computer 6d determines the angle from the positions of the vertical center line of the face and the top of the head, and then determines the position relation among the facial features. If any facial feature detected is not located at the position it should take, it will be identified in accordance with its position with respect to

*those of the other facial features detected later. If the facial feature cannot be identified, the local module assigned to the region in which the facial feature may exists processes the video signals representing the region, for the second time."*, Kuno, column 12, lines 43-65)

a power drive unit for moving the entire robot toward the detected human ("Another drive mechanism is incorporated in the trunk of the robot 5. When this mechanism is actuated, the robot 5 moves in any direction on the floor", Kuno, column 28, lines 27-29);

face identifying means for identifying a position of a face of the detected human ("As can be understood from FIG. 16, the facial features of the subject, e.g., the eyebrows, the eyes, the nose, the ears, the mouth, have the position relation which is common to human beings. This relation is defined by the positions of individual facial features with respect to the vertical and horizontal directions, and also by the distances between the facial features. The designated local module or the host computer 6d can, therefore, determine the positions of the facial features detected in step f4, in accordance with the data representing said position relation. To detects the images of the facial features, the

vertical center line of the subject's face is first detected from the outline of the subject's head, the angle by which the subject faces away from the video camera 31a is then determined from the position of the center line and the position of the top of the head. More specifically, the host computer 6d determines the angle from the positions of the vertical center line of the face and the top of the head, and then determines the position relation among the facial features. If any facial feature detected is not located at the position it should take, it will be identified in accordance with its position with respect to those of the other facial features detected later. If the facial feature cannot be identified, the local module assigned to the region in which the facial feature may exists processes the video signals representing the region, for the second time.", Kuno, column 12, lines 43-65)

face image cut out means for cutting out a portion of the captured image of the detected human so that the portion of the image includes a face image of the detected human; ("the image of the subject's head is extracted from the input image (Figure 11A)", Kuno, column 9, lines 43-44); and

image transmitting means for transmitting only the cut out portion of the image including the face image to an external terminal ("and the signals showing the subject's image are transmitted to a CRT display installed in a monitor room", Kuno, column 1, lines 60-62)

**Regarding claim 2**, Kuno discloses an image transmission system according to claim 1, further comprising means for monitoring state variables including a current position of the robot; the image transmitting means transmitting the monitored state variables in addition to the cut out face image ("FIG. 28 is a diagram illustrating how to determine the position of the robot," Kuno, column 3, lines 16-17, "The physician looks at the subject's face being displayed on the display of the monitor console and also checks the physical conditions being displayed on the other displays of the console, in order to decide what he or she should do for the subject.", Kuno, column 5, lines 26-30, "the circuit 40 starts transmitting the image data representing the image of the subject, to the monitor section 2", Kuno, column 5, lines 14-16, "Meanwhile, the electronics sensors 33 installed in the sickroom, such as the hemodynamometer and the electrocardiograph, both attached to the subject, output diagnosis signals, representing the physical conditions of the subject. The video signals and the diagnosis signals are input to the signal processor 32 incorporated in the data-processing/control section 4. The processor 32 processes these input signals, thereby generating image data and diagnosis data. The image data and the diagnosis data are supplied to the abnormality decision circuit 34 incorporated in the robot 5.", Kuno, column 5, lines 10-20).

**Regarding claim 3**, Kuno discloses an image transmission system according to claim 1, wherein the robot is adapted to direct the camera toward the position of the face of the detected human (“Since the video camera 31a built in the robot 5 is directed to only the subject on the bed”, Kuno, column 7, lines 30-31).

**Regarding claim 4**, Kuno does not disclose an image transmission system according to claim 1, further comprising means for measuring a distance to each of a plurality of humans, the human detecting means being provided with means for detecting a human closest to the robot (“The robot 5 has several ultrasonic sensors on its trunk. The ultrasonic sensors detect the distances between the robot 5 and the other objects in the sick room. An alarm signal is generated and transmitted to the monitor section 2 when any ultrasonic sensor detects that the robot 5 is too close to any other object.”, Kuno, column 30, lines 34-39).

**Regarding claim 5**, Kuno discloses an image transmission according to claim 1, wherein the mobile robot is adapted to move toward the detected human according to a distance to the detected human (“The robot 5 has several ultrasonic sensors on its trunk. The ultrasonic sensors detect the distances between the robot 5 and the other objects in the sick room. An alarm signal is generated and transmitted to the monitor section 2 when any ultrasonic sensor detects that the robot 5 is too close to any other object.”, Kuno, column 30, lines 34-39).

**Regarding claim 7**, Kuno discloses an image transmission system according to claim 1, wherein the face identifying means comprises means for detecting an outline of the detected human, and identifying a face as an area defined under an upper part of the outline of the detected human (“As can be understood from FIG. 15, in step f1, one of the the local modules processes the video signals representing those pixels near the sides of the rectangle (FIG. 11D), thereby detecting the outline of the subject's head.”, Kuno, column 12, lines 12-15).

**Regarding claim 8**, Kuno discloses an image transmission system according to claim 1, wherein the human detecting means is adapted to detect a human as a moving object that changes in position from one frame of the image to another (“In step i7, it is determined whether or not any object is moving. This decision is made based on the ratio in number of the small-value pixels to the great-value pixels--all stored in the memories. More precisely, when this ratio is greater than a threshold value, it is determined that the input image includes the image of at least one moving object. This is because the pixels defining the outline of a movable object, if any in the input image, have great values when the outline does not move at all during said predetermined period. Hence, whether or not any object is moving can be determined very accurately.” Kuno, column 20, lines 16-26).

**Regarding claim 9**, Kuno discloses an image transmission system according to claim 1, wherein the face image of the detected human occupies a substantially entire area of the cut out portion of the image (“and the signals showing the subject's image are transmitted to a CRT

display installed in a monitor room”, column 1, lines 60-62, “the image of the subject’s head is extracted from the input image (Figure 11A)”, column 9, lines 43-44).

**Regarding claim 10**, Kuno discloses an image transmission system for a mobile robot, comprising:

a camera for capturing an image as an image signal (Figure 2B, 31a and 31b; “video camera”, Kuno, column 1, line 11).

human detecting means for detecting a human from the captured image (*“As can be understood from FIG. 16, the facial features of the subject, e.g., the eyebrows, the eyes, the nose, the ears, the mouth, have the position relation which is common to human beings. This relation is defined by the positions of individual facial features with respect to the vertical and horizontal directions, and also by the distances between the facial features. The designated local module or the host computer 6d can, therefore, determine the positions of the facial features detected in step f4, in accordance with the data representing said position relation. To detects the images of the facial features, the vertical center line of the subject's face is first detected from the outline of the subject's head, the angle by which the*

*subject faces away from the video camera 31a is then determined from the position of the center line and the position of the top of the head. More specifically, the host computer 6d determines the angle from the positions of the vertical center line of the face and the top of the head, and then determines the position relation among the facial features. If any facial feature detected is not located at the position it should take, it will be identified in accordance with its position with respect to those of the other facial features detected later. If the facial feature cannot be identified, the local module assigned to the region in which the facial feature may exists processes the video signals representing the region, for the second time.”, Kuno, column 12, lines 43-65)*

a power drive unit for moving the entire robot toward the detected human (“Another drive mechanism is incorporated in the trunk of the robot 5. When this mechanism is actuated, the robot 5 moves in any direction on the floor”, Kuno, column 28, lines 27-29);

face identifying means for identifying a position of a face of the detected human (“As can be understood from FIG. 16, the facial features of the subject, e.g., the eyebrows, the eyes, the nose, the ears, the mouth,

have the position relation which is common to human beings. This relation is defined by the positions of individual facial features with respect to the vertical and horizontal directions, and also by the distances between the facial features. The designated local module or the host computer 6d can, therefore, determine the positions of the facial features detected in step f4, in accordance with the data representing said position relation. To detect the images of the facial features, the vertical center line of the subject's face is first detected from the outline of the subject's head, the angle by which the subject faces away from the video camera 31a is then determined from the position of the center line and the position of the top of the head. More specifically, the host computer 6d determines the angle from the positions of the vertical center line of the face and the top of the head, and then determines the position relation among the facial features. If any facial feature detected is not located at the position it should take, it will be identified in accordance with its position with respect to those of the other facial features detected later. If the facial feature cannot be identified, the local module assigned to the region in which the facial feature may exist processes the

video signals representing the region, for the second time.",  
Kuno, column 12, lines 43-65)

face image cut out means for cutting out a portion of the captured image of the detected human  
so that the portion of the image includes a face image of the detected human; ("the image  
of the subject's head is extracted from the input image (Figure  
11A)", Kuno, column 9, lines 43-44); and

image transmitting means for transmitting only the cut out portion of the image including the  
face image to an external terminal ("and the signals showing the subject's  
image are transmitted to a CRT display installed in a monitor  
room", Kuno, column 1, lines 60-62)

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all  
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of  
Kuno (US 5,802,494) and Nakadai et al. (US 6,967,455 B2).

**Regarding claim 6**, Kuno discloses an image transmission system according to claim 1, further comprising a face database(“The operator can store into the host computer 6d the data representing the properties of the subject's head, including those of his or her facial features.”, Kuno, column 17, lines 57-59)

Kuno does not teach an image transmission system that includes a face database that stores images of a plurality of faces and face identifying means for comparing the cut out face image with the faces stored in the face database to identify the cut out face image.

However, Nakadai teaches an image transmission system that includes a face database that stores images of a plurality of faces and face identifying means for comparing the cut out face image with the faces stored in the face database to identify the cut out face image (Fig. 6, num. 38).

It would have been obvious to one of ordinary skill in the art to combine the mobile robot taught by Kuno, as described in claim 1 above, with a face database that stores images of a plurality of faces and face identifying means for comparing the cut out face image with the faces stored in the face database to identify the cut out face image as taught by Nakadai in order to be able to discern a particular individual from many individuals as is well known to one of ordinary skill in the art.

9. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kuno (US 5,802,494) and Higaki (2004/0028260 A1).

**Regarding claim 6**, Kuno discloses an image transmission system according to claim 1, further comprising a face database ("The operator can store into the host computer 6d the data representing the properties of the subject's head, including those of his or her facial features.", Kuno, column 17, lines 57-59)

Kuno does not teach an image transmission system that includes a face database that stores images of a plurality of faces and face identifying means for comparing the cut out face image with the faces stored in the face database to identify the cut out face image.

However, Higaki teaches an image transmission system that includes a face database that stores images of a plurality of faces and face identifying means for comparing the cut out face image with the faces stored in the face database to identify the cut out face image ("Reference symbol 72 denotes a face database in which human facial recognition information is predefined. [0041] The face recognition section 60 picks out only the face part from the color image 81, based on the face position coordinates 105 and 106, and obtains a face feature vector. The face recognition section 60 searches the face database 72 based on the data similar to the obtained feature quantity, and in the case where corresponding face data exists, stores the individual person ID

104 assigned to the corresponding face data in the memory 8. The generation operation for the 3D object data 100 described here is repeatedly carried out regardless of the other processing status.", Higaki, paragraph 86).

It would have been obvious to one of ordinary skill in the art to combine the mobile robot taught by Kuno, as described in claim 1 above, with a face database that stores images of a plurality of faces and face identifying means for comparing the cut out face image with the faces stored in the face database to identify the cut out face image as taught by Higaki in order to "recognizes faces from amongst a plurality of persons" (Higaki, paragraph 22).

### **Double Patenting**

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/814343 in view of Kuno (US 5,802,494).

Claim 1 of copending application 10/814343, while disclosing a camera, a human detecting means, a power drive unit, an image cut out means and an image transmission means does not teach a face identifying means and a face image cut out means.

Kuno teaches a system in the same field of image transmission for a mobile robot, comprising the face identifying means and a face image cut out means as discussed in the Claim 1 rejection above.

It would have been obvious to modify claim 1 of application 10/814343 to include a face identifying means and a face image cut out means because the face of a human being is the most identifiable part of a human being and including the rest of the body is unnecessary in that it does not add much additional information that cannot be obtained from viewing solely the face.

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elisa M. Rice whose telephone number is (571)270-1580. The examiner can normally be reached on 8:00a.m.-5:30p.m. EST Monday thru Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian P. Werner can be reached on (571)272-7401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian P. Werner/  
Supervisory Patent Examiner, Art Unit 2624

Elisa Rice  
Assistant Patent Examiner  
2624